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AUTHOR Rudin, Kelly Bryan
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ABSTRACT

In 1975, India's Prime Minister, Indira Gandhi, declared a state of emergency, temporarily suspending the civil liberties of this country's citizens. This classroom simulation, designed for use in secondary school world history classes, examines the various issues surrounding this declaration of emergency and includes: (1) an introduction to the Indian Constitution; (2) an explanation of events leading to this state of emergency; (3) a fictitious simulated event that permits students to argue for or against the declaration of emergency; and (4) a list of resource materials. An included lesson plan presents the simulation and suggests class activities and discussion questions. Specific resource materials that can be used for background information on each character in the simulation are listed, and an 11-item bibliography is included. (JHP)

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"Democracy Threatened"

India's Emergency of 1975

A Classroom Simulation

by

Kelly Bryan Rudin
Southern Alamance High School
Route 4 Box 569
Graham, North Carolina 27253

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"Democracy Threatened"

India's Emergency of 1975

On June 25, 1975 India's democracy was placed in "cold storage", according to Time. In response to actions by political opponents, Prime Minister Indira Gandhi declared a State of Emergency, temporarily suspending the civil liberties of the citizens of the world's largest democracy. There is still debate as to whether the nation as a whole was at risk or whether the real threat was to the political career of Mrs. Gandhi. Undeniable though is the fact that the delicate fabric of this "impossible democracy" was severly tested. Not only did India not have the "prerequisites" of a democracy -- a strong middle class and an educated population -- but for two years the country also appeared to have a dictator. This situation was not to last, however, for in 1977 Mrs. Gandhi herself called for an election and the Indian people promptly voted her out of office, once again asserting their hard fought right to self-determination.

This classroom simulation examines the issues surrounding the declaration of the Emergency in 1975. This material consists of 1) an introduction to the Indian Constitution, 2) an explanation of the events leading up to the declaration of the Emergency, 3) a fabricated "situation" whereby students can argue for or against the declaration of Emergency, 4) source material for the students' arguments, and 5) supplemental material for additional background.

The meeting that is the heart of this simulation is fictitious. Mrs. Gandhi had, for several weeks prior to declaring the Emergency, met privately with members of her Council of Ministers for advice, as was

proscribed by the Constitution. However, she at no time gathered a group together (which the Prime Minister would be required to do now with the revision of the Emergency powers) and she did not meet with members of the opposition. The characters in this simulation are loosely based on real people and have been given false names. The speeches, given as sources for the students, are taken from newspaper editorials written both before and after the press censorship of the Emergency. Some are taken from speeches in Parliament. Two are drawn from private conversations I had with Indian citizens, one a former Justice of the Indian Supreme Court.

This simulation can be used in several contexts. First, it is designed for use in a history class as part of a unit on modern India. It can also be used in a unit examining the problems of developing nations in general. Second, this simulation can be used in a civics or history class to examine the concepts of democracy, individual liberties, and/or national security. Finally, the unit can be used in a civics class to compare and contrast the Indian constitution with the Constitution of the United States, and to compare the office of the executive in the two countries.

Suggestions for use:

Before beginning the lesson, assign the roles to students. There are 11 roles that can be assigned -- the ten who are gathered to advise Mrs. Gandhi and Mrs. Gandhi herself, who will introduce the situation and lead the discussion. The number of students with assigned positions can be decreased if it is preferable to have more students who are uncommitted to either side. The students can choose their own sources or the teacher can assign them, but the students should only be given the sources for their side of the discussion. There are basic parallels between the roles and the source material (Sharad-1, Pande-2, Narain-3, Shukla-4, Ram-6,

Chowdhury-9, Kumar-12). The students in the class that do not have assigned roles will also be participants in the discussion and will be required to vote at the end of the discussion. All students should have copies of the Background and Situation material. The article "After Midnight" and the short Time piece on Mrs. Gandhi would be helpful for the students with assigned roles. It should not be disclosed at this time that the Emergency was declared.

Day 1 -- Cover the historical background to Indian independence and the difficulties and triumphs of pulling together the myriad forces at work in this land (refer to 'After Midnight" article). Include an examination of the Indian Constitution, especially the provisions concerning the fundamental rights.

Day 2 -- The simulation is acted out in class. Mrs. Gandhi should explain the situation to the rest of the class, then ask the students with assigned roles for discussion. They should ask each other questions and the rest of the class should be able to ask questions at the end of the session. At this point, it should NOT be stated that an emergency was declared. The rest of the class, acting as an informal advisory group, should be asked to vote whether or not the Emergency should be declared and should write reasons for their decisions.

Day 3 -- Mrs. Gandhi or the teacher gives the "conclusion". The discussion that follows could center on these questions:

1. Is there a situation where the protection of the state overrides the protection of individual liberties, including habeas corpus?

2. Is there a situation where the protection of individual liberties must take precedence over national security?

3. Which is preferable: the concept of "resonable restrictions" being written into a constitution, or the constitution imposing no limits on freedoms at all, such as with the First Amendment of the Constitution of the United States?

4. Should the U.S. have an Emergency Provision in its Constitution?
   Should India, or any other country, have such a provision?
   Under what circumstances should a new nation include this provision?

5. Compare and contrast Indira Gandhi's actions to those of Abraham Lincoln during the U.S. Civil War.

6. Does a democracy require a strong economy and an educated population to survive?

7. Referring to the Time article on J.P. Narayan, is there any justification to the concept of "justifiable violence"? How does this compare with the non-violent teachings of Mohandas Gandhi?

8. What enables a Constitution to endure?

The Indian Constitution

At midnight on August 15, 1947 India was born. The British left behind not rich and powerful princely maharajas, but a nation rife with violence, famine and poverty. Fourteen months later, on November 26, 1949, India's Constitutional Assembly adopted her Constitution, providing a structure for the economic and social revolution that would make this nation, with the second largest population in the world, the largest democracy in the world. "From diversity, unity" was the theme, as India attempted to pull together the myriad cultural, linguistic economic and religious forces of the subcontinent into a functioning whole.

Structure

The purpose of the Indian Constitution was to foster economic and social revolution. Specifically, its goals included:

1. to achieve national unity and stability,
2. to promote democratic political behavior based on parliamentary procedures,
3. to protect minority interests,
4. to express general principles and humanitarian sentiments.

It is the longest Constitution in the world, containing 395 articles. The Indian Constitution (from We the People)

-- makes India a sovereign, democratic republic and a secular state,
-- is federal in character,
-- divides power between the Union and the States, though the Centre has more power,
-- provides for single citizenship for the whole of India,
-- provides for a uniform single judiciary for the whole of India,
-- gives the right to vote to all citizens of 21 years and above, unless they are otherwise disqualified,
-- provides for a parliamentary form of government, both at the Union and

State level,
-- guarantees to all citizens certain fundamental rights,
-- provides the Directive Principles of State Policy to guide the state in law-making for social and economic welfare,
-- provides a procedure for amendments when necessary.

As can be seen by this list, the Indian Constitution has many components that are similar to the Constitution of the United States. India is a union of 31 states; powers reserved for the states include law and order, education, irrigation, medical services, roads and law courts. The states are banded together under a central government for their own good. They are not independent and have no right to withdraw from the Union. There is one citizenship and a single uniform judiciary for the whole nation. The decisions of the Supreme Court are binding on all courts of India. The states do not enjoy powers equal to those of the Union government and during an emergency the Union Government can deprive the states of their authority (We the People).

The government has three branches -- legislative, executive and judiciary -- and is parliamentary with a president as the constitutional head of the government. All executive authority of the Union is formally vested in the president and all executive actions must be taken in his name. Real executive powers, however, are vested in the Prime Minister, who is the leader of the party in majority in the popularly elected Lok Sabha. The Prime Minister chooses members of the Council of Ministers who are collectively and individually responsible to the Lok Sabha (We the People).

The Indian Parliament consists of the President and two Houses. The Lok Sabha -- the House of the People -- is directly elected by the people in general elections held every 5 years (the term can be shortened or extended by the President). The Rajya Sabha -- Council of States -- is a

permanent body in which, like the Senate of the United States Congress, one-third of the members retire every two years to be replaced by fresh elections. Twelve members are nominated by the President and the others are indirectly elected by members of State Legislative Assemblies. In order for a bill to become law, it must be passed by both Houses and be approved by the President. The Lok Sabha has more financial authority and can remove the government (We the People).

Fundamental Rights

Like the Constitution of the United States, the Indian Constitution takes great pains to enumerate the fundamental rights that the government must protect and respect. These include rights to equality, freedom of speech and expression, assembly, movement, and association; rights against exploitation; freedom of religion; cultural and educational rights; rights to property; and rights to Constitutional remedies. These rights are shown in the Appendix on page ii. It should be noted that these rights include cultural and economic rights as well as civil rights. In the Preamble to the Indian Constitution (Appendix, p.i) the Indian government is pledged to support the "equality of status and opportunity for all" -- a monumental task for a nation of such economic extremes. India is a socialist country and the state is required to try to secure the "social well-being of the people and to establish social and economic democracy." (Appendix, p. ii)

The Indian Constitution was born during great national adversity. The years between 1947 and 1950 were marked in this young country by domestic violence over the partition of Pakistan, enormous food shortages, the continuing trial of Mahatma Gandhi's assassin, communist subversion, and the hallmark of the subcontinent: overwhelming cultural and linguistic

diversity. The Indian Constitution was written in this context of possible anarchy.

While carefully insuring the rights of the people of India, the framers of the Constitution of India took a step which the United States Supreme Court had to deal with almost 130 years after the Bill of Rights had been added. In 1919, in the decision of Schenck v. the U.S., the U.S. Supreme Court recognized the federal government's power to limit certain first amendment rights if the practice of those rights presented a "clear and present danger" to the U.S. The Framers of the Indian Constitution did not leave this decision to future justices. They wrote the concept into the Constitution.

It was felt that adult suffrage and free elections could not in themselves sustain a free democratic society unless the citizens enjoyed certain basic freedoms and fundamental rights. However, while democracy requires that the will of the people limit the freedom of the government, it also requires that the freedom of the population be limited. The fundamental freedoms guaranteed to the individual under the Constitution are not to override national security and general welfare. For, in the absence of national security and general welfare, individual rights themselves are not secure. Freedom of speech does not mean freedom to abuse others and freedom of movement does not mean freedom of physical attack on others (Pylee). The Indian Constitution has expressed provisions setting forth such limitations on the enumerated freedoms. Article 19, which protects the seven basic freedoms, places "reasonable restrictions on the exercise of any of the rights ... in the interests of the general public."

A second concept written to counter the 1947 spectre of anarchy is addressed in Article 352. This provision allows for a "Proclamation of Emergency," which states, "if the President is satisfied that a grave emergency exists whereby the security of India or any part of the territory is threatened ... he may make a declaration to that effect." It covers three different situations: "1) war or threat of external aggression or internal disturbance affecting the security of the country, 2) a breakdown of the contitutional machinery in any state, and 3) a threat to the financial security or credit of India" (Pylee). A Proclamation of Emergency gives the federal government special powers which can, partly or in full, suspend the powers of the individual state governments. The Proclamation even authorizes the federal government to suspend protection of the guaranteed rights of citizens when it seems necessary to do so. Until Article 352 was amended after the Emergency, this even allowed the suspensions of Articles 21 and 22, which protect the life and personal liberty of individuals and their rights at the time of arrest, including habeas corpus. Parliament, during a state of Emergency, has the power to pass any laws necessary to deal with the Emergency. The powers last for six months.

Emergency powers have been invoked four times since 1947. Three times were external emergencies in response to wars with neighbors. The latest external emergency was declared in 1971 in response to war with Pakistan. This emergency had little effect on the liberties of the Indian people, but when it was still in effect in 1975, some were beginning to express concerns that the emergency was beginning to appear undemocratic. The last state of Emergency was called in 1975 in response to an internal crisis.

Following is a discussion of this disturbance and the government's response to it.

Background

It is June of 1975. Indira Gandhi is the Prime Minister of India, the largest democracy in the world. The population of 605,000,000 is booming uncontrollably, the average income is $134 per capita, the average life expectancy is 52 years and the illiteracy rate is 64%. 1974 brought both a bumper crop of wheat and the deaths of 30,000 people due to smallpox in the worst smallpox epidemic in history. 40% of the population has fallen below the government's poverty line of absolute minimal conditions for mere survival. The green revolution has ended up benefitting mostly the wealthy landlords and the gap between rich and poor keeps increasing. As more and more farmers leave their villages, the plight of the urban poor increases. The droughts of the early years of this decade, the worldwide recession and the jump in oil prices have produced acute shortages and spiraling inflation. In addition to these volatile conditions are added political crises that seem to threaten the government that is dedicated to democratic social and political reforms.

Politically, Mrs. Gandhi is in trouble. Her party, the Congress Party, is in uncontested power in Parliament and the opposition parties are fragmented. On June 12 the High Court in the state of Allahabad rules that during the 1971 elections Mrs. Gandhi was guilty of using a government official in her political campaign and using government funds to build a rostrum from which she gave a political speech. These are minor improprieties that could not have changed the outcome of the election; some have compared the situation to trying to use a traffic offense to unseat the Prime Minister. However, the High Court ruling is sufficient to unseat Mrs. Gandhi and bar her from holding elective office for six years, long enough for the people to forget the good she has done in the past and

for her enemies to unearth skeletons from her closet. One bright spot appears on June 20. The Supreme Court rules an interim injunction against the judgment from Allahabad, preventing it from becoming operative until the appeal brought by Mrs. Gandhi has been disposed of.

Mrs. Gandhi basically has three options. She can wait to see if the Supreme Court supports her appeal and exonerates her, recognizing that a risk exists of losing the appeal and being out of office, stigmatized, for six years. She can resign and win the applause of the world for her actions as a "true democrat." Her third option is to take matters into her own hands and make the ruling impossible to carry out by taking total control of the nation in an internal Emergency. If she proclaims an Emergency, she can have Parliament pass laws that would retroactively exonerate her from the Allahabad decision. If it is true that "India is Indira," as her campaign slogan has proclaimed, then the country cannot afford to lose this experienced and dedicated leader. Not only is she and her party threatened by the Allahabad ruling, it can be argued, but the nation as a whole is also threatened.

In addition to this major political crisis, a national tempest has been brewing, especially in the northern states. In the states of Gujurat and Bihar, state governments have been threatened and disrupted since 1974 as frustrated citizens have fought against the corruption that is rampant there. Shri Jayaprakash (J.P.) Narayan, a hero of the anti-British "Quit India" movement which won India her independence, an old friend of Indira Gandhi and her father Jawaharlal Nehru, and the protector of the common people and the downtrodden, has brought the conflict in the north to the national front to battle for people all over India. In a speech on Sept. 9, 1974, he had stated that "From this date (October 3-5) there would be no

trains running from Bihar, buses would be off the road, work in the government offices, including the secretariat would be paralyzed and shops will remain closed ... A week's paralysis will be enough to end the government in Bihar." He included in this speech that, "It is now an open confrontation with the Bihar government. The state government has neither status or stamina." Earlier, on March 29, 1974, in a speech in Madras, Mr. Narayan had been even more antagonistic toward the federal government which he sees as thouroughly corrupt and a major source of India's woes:

> "Realise the strength which you possess. Seven days' strike in the Indian Railways -- every thermal station in the country would close down. Ten days' strike in the Indian Railways -- every steel mill in India would close down, and the industry in the country would come to a halt for the next 12 months. If once the steel mill furnace is switched off, it takes nine months to refire. A 15-days' strike in the Indian Railways -- the country will starve." (Socialist India)

Encouraged by the Allahabad Court decision, J.P. Narayan has instituted a series of "Resign Indira" rallies in Delhi (with Gandhi's party holding counter rallies calling for law and order). Today, on June 25 1975, at a mass rally in Delhi, Mr. Narayan has announced a week-long campaign of demonstrations and civil disobedience throughout the country to force Mrs. Gandhi's resignation. The campaign is to begin on June 29. In the course of his speech today, Mr. Narayan exhorted the police and the military to disobey government orders that are repugnant to their consciences. In the context of the resignation drive, this could sound like a call for mutiny. The power of the Indian masses had driven the British out of India in 1947 and Mrs. Gandhi could be forced to resign at the hands of those same masses. In addition to this, elections will be held next year which could cast her party from power.

The Situation

It is late in the night of June 25, 1975. It has been an extremely exhausting day after two trying weeks as events in India coalesce into what could be a grave crisis. Those of you who are friends of Indira Gandhi have seen her struggle to maintain control of her government since the Allahabad decision. You worry that events of the next few days could topple her government, plunging your country into anarchy. Some of you who must oppose her feel that her government is to blame for the present state of crisis and that there must be a change of leadership in order for India to get back on the right track. Some of you shudder at the thought of the precious democracy that Indians shed so much blood to obtain could be threatened. What ever your position, the future of over 600 million people could well hang in the balance tonight.

Indira Gandhi must reach a decision on what her actions will be. In three days the "Resign Indira" campaign will begin and the thought of the emotional throngs that could be worked into fevered resistance to her government looms prominently. The calls to the army and the police by J.P. Narayan ring in your ears. It is within Mrs. Gandhi's constitutional powers to ask for a Proclamation of Emergency. Should she do this to avert possible trouble?

She has asked you, old friends and enemies alike, to give her recommendations before her final decision. Should she ask the President to make a proclamation of Internal Emergency? Keep in mind that should an Emergency be declared, there are many opponents out there, and possibly in this room, who will have to be silenced in order to give the proclamation a chance to work. There exists the possibility of "midnight arrests." At

the end of this discussion you will be asked to vote. Should Mrs. Gandhi declare a State of Emergency or not?

Gathered together, you are:

Supporters of Mrs. Gandhi

Nusli Pande -- You are a civil servant turned politician. As a member of the Indian civil service you made a name as an efficient administrator. You became Minister of Health in 1971.

Janaki Narain -- You are a cousin of the late Prime Minister, Jawarharlal Nehru, Mrs. Gandhi's father. You have served as India's ambassador to the U.S., the U.S.S.R., the U.N., and the High Commissioner to the U.K. You retired from active politics in 1967 but have remained an advisor to Mrs. Gandhi.

Vasant Sharad -- You are 52 years old and the chief minister of a large state, which you rule as you would a fief. You consider the ends more important than the means. You have risen from being a caseless lawyer to the chief ministership in less than a decade and you would like to go still higher.

Natwar Shukla -- You have been a close friend of Mrs. Gandhi since she served as Minister of Information and Broadcasting in 1964. You support her because of what you see as her commitment to lead the country well. You are Minister oi Transportation.

Devi Ram -- You are 68 years old and member of the Congress Party since its beginning. You have been a minister in virtually every cabinet since 1947

and have proved to be a respected administrator. You are a Harijan (untouchable) leader.

Opponents

Jyoti Dal -- You resigned from the civil service to join the nationalist movement in 1930 and after independence were one of the most powerful men in Congress. You served as Finance Minister and later as Deputy Prime Minister in the central government.

Jagjivan Chowdhury -- You are 52 years old and a lawyer. You were Minister of State in Mrs. Gandhi's Council of Ministers from 1971-74. You resigned following the rejection of you move to open dialogue with J.P. Narayan during the Bihar agitation.

Sanjay Singh -- 74 years old and one of the founding fathers of the Janata Party, the chief opposition party. A lawyer and author, you were the Chief Minister in a non-Congress government in Uttar Pradesh following the 1967 elections. You are well known for you integrity and courage.

Buto Rao -- A trade Union leader, you are 46 years old. In 1974 you led a national railroad strike which was crushed by stern government action. You have frequently been cited by Mrs. Ganhi as an example of the "lack of discipline" that brought India to this crisis.

Mohandas Kumar -- You are a justice in the Supreme Court, next in line to be Chief Justice.

Sources

Supporters

1. The emergency provision must be invoked in order to forestall the subversive attempts of some opposition parties and groups which had drawn up plans to "strike at strategic points and paralyze the life of the nation." The people must be called upon to be vigilant and continue to lend their full support and cooperation in their determined efforts to deal firmly with those evil and anti-democratic forces so that the course of democratic and socialist transformation is rendered safe for the teeming millions. Steps should be taken immediately to provide credit for the rural poor whose money was taken from them by the moneylenders. Mrs. Gandhi must urge partymen to take personal interest in programs like distribution of land to landless poor.

Some opposition groups resolved to organize a country-wide movement to remove the Prime Minister by unconstitutional and anti-democratic means, including violent methods. They should take note either of the judicial pronouncements or of the expression of the will of the majority of the elected representatives of the people in Parliament.

Trade unions under the influence of certain opposition parties and taking advantage of the economic stress and strains had organized strikes, go-slow movements by government employees, railroad employees and industrial employees. They also organized on many occasions acts of sabotage paralyzing the railroad and communication systems. Several educational institutions were closed.

All this has been reflected in the general deterioration of law and order in the country, with anti-social elements having a field day whenever

there was trouble on any front. Now comes this so-called "total revolution" movement. Under this banner attempts are being made to bring together extreme elements of the right reaction and left adventurism. These elements must not be allowed to use this platform to bring down the government established by the will of the people by removing Mrs. Ganhi.

2. An Emergency will lead to the toning up of the administrative machinery in all spheres -- especially in those where government functioning directly affects the lives of citizens. Hospitals lie in one of the most important such spheres. People visit hospitals and dispensaries in large numbers every day and when they go there, they are invariably in a condition of physical pain and mental distress which makes them sensitive and vulnerable.

Special efforts should be made to improve the medical system. It is imperative that all doctors, nurses and paramedics and other staff should show the utmost courtesy and consideration to patients and their friends and relatives besides providing technical competence and environmental cleanliness.

It has come to our notice in various parts of the country that medicines meant for patients find their way into the black market. The feeding and treatment of patients leave a great deal to be desired and hospitals are often in dirty and unhygienic conditions. Outlays on hospitals are usually inadequate and they function under many disabilities. So much more could be achieved by greater dedication and discipline. This discipline must be enforced and watched over -- a State of Emergency would make that possible.

3. The Emergency would be proclaimed under provisions in the Constitution. Do you not think that the U.S. would have acted similarly 25 years after its independence if organizations like the KKK and the extreme left had joined hands in inciting the army, police and civil servants? I hope that in the future the opposition will work according to the Constitution, but for now, the forces of disruption threaten the entire country.

4. Leaders of certain rightist and extremist political groups have set in motion a great conspiracy, posing a serious threat to the internal security of India during the last ten or twelve months. The President must proclaim a national emergency to check the unhealthy tendancies in our national fabric. I appeal to everyone to put our country and the national welfare above everything else and to support this proclamation. This is not a question of any individual or party but of safeguarding the unity and independence of the country and ensuring that the nation moves forward on the right path.

Parliament has been used to hurl baseless charges of corruption and no one has been spared in that process of planned character assassination. Parliamentary proceedings have been brought to a standstill almost every day, setting at naught not only parliamentary rule and procedures, but all codes of decency and orderly behavior. It was the people who elected Mrs. Gandhi and only they can unseat her. The people, particularly the common men and women would welcome the declaration and the emergency. With firm government controls prices will fall and there will be significant improvement in law and order.

5. There is only one magic which can remove poverty and that is hard work sustained by clear vision, iron will and the strictist discipline. The

worst feature of the crisis that has been building over the last few months was that it spread cynicism and sapped the national self-confidence. The campaign of lawbreaking, paralyzing national activity and inciting our security forces to indiscipline and disobedience could lead to economic chaos and collapse and our country would be vulnerable to fissiparous tendancies and external danger. With the fumes of hatred cleared somewhat we will be able to see our economic goals with greater clarity and urgency. The emergency would provide us with a new opportunity to go ahead with our economic tasks.

There is a general slackening in discipline in various walks of life like industrial establishments, educational institutions and government offices. It is necessary to get the people back on the rails if the country is going to progress far and in an orderly manner. Expectations of the people have been aroused and they have to be fulfilled.

6. Walk around our cities and villages. Look at our poor and homeless. Look at our children who are starving. Someone must come in and make this country function so that we can feed, clothe and house all of our citizens. We have tried reform in the past and it has failed. Individual states fail to do their duty. Some are so overwhelmed by corruption that the honest officials are unable to function. As a government, we are pledged to bring about the opportunity for social and economic equality for everyone. You tell a child playing in the muck of a Bombay slum how precious the Preamble to the Constitution is and his growling stomach will drown you out.

In 1947, at 15, my father walked from the western Punjab to Delhi with the tens of thousands of refugees fleeing Pakistan. He saw the bloodshed, and the hunger. He sent his wages to his family and ate off of the streets, finally spending a year in the hospital dying of malnutrition. My

father became an avowed Marxist because he believed in the ideals of letting the common man have a chance to survive. But when his ideals made him lose his job and his medical benefits, he began to silence those beliefs. He still felt them, but he knew that feeding his family was more important than voicing his ideals.

You tell those children starving in the streets of Calcutta that their civil liberties might be threatened by a state of emergency. If they could, they would say, "What is more important -- a man's right to speak out or some food in my stomach so that I will survive until my tenth birthday?" We must ensure that this government will be able to pull India out of this undisciplined dispair that we have sunk into. When all of our citizens are fed and housed, then we can begin to ensure people's rights to speak out. No one should be able to threaten the government that can feed and clothe our poor.

Opponents

7. There is every danger in the country of constitutional despotism gradually and imperceptibly ending in absolute despotism. In 24 years of free India under the Constitution, nine years have been spent under the external emergency during which autommatically the freedom of the people has been placed at the discretion of those in power. These laws, which may have justification during war have been enforced during peacetime -- the external threat that existed in 1971 when the external emergency was declared is no longer as severe. The government has armed itself with wartime powers in peacetime and has misused those to abridge civil liberties and put thousands of political opponents behind bars

The fact that such uncontrollable powers are exercised for such a long time under the facade of democratic process without any effective public protest is an alarming indication that absolute despotism is within the realm of probability.

Autocratic power everywhere tends to perpetuate and entrench itself in the name of the public good, and history records that abuse of constitutional despotism inevitably leads to absolute despotism.

8. Not only should a state of emergency not be declared, but Articles 358 and 359, which allow it, should be removed from the Constitution. If they are, nothing untoward would happen, for under the Constitution, Parliament has ample power to make relevant laws to meet any emergency. Moreover, the 16th Amendment to the Constitution enables the state to impose reasonable restrictions on the first three freedoms guaranteed in Article 19.

Thus, deletion of the two articles would leave adequate power in the hands of Parliament to meet emergencies of war and external disturbances

but would prevent the executive from becoming a dictator and suppressing the freedoms of the people. In the final analysis, the guarantee behind our Constitution is the vigilance of our people. Vigilance is the price citizens have to pay to sustain their democratic rights.

9. If Justice, Liberty, Equality and Fraternity have not been rendered to "all its citizens" (as was mandated by the Constitution) even after a quarter century since the signing of that Constitution, the fault is not that of the Constitution or of the democracy but of the Congress Party that has had power in Delhi all these years. It is precisely because of that failure that there is so much unrest among the people and the youth. Repression is no remedy for that ... it only compounds the failure.

Please do not destroy the foundations that the Fathers of the Nation, including your noble father, had laid down. There is nothing but strife and suffering along the path that you are taking. You inherited a great tradition, noble values, and a working democracy. Do not leave behind a miserable wreck of all that. It would take a long time to put all that together again. For it would be put together, I have no doubt. A people who fought Britsh imperialism and humbled it cannot accept indefinitely the indignity and shame of totalitarianism. The spirit of man can never be vanquished, no matter how deeply suppressed. In establishing your personal dictatorship you will bury it deep. But it will rise from the grave. Even in Russia it is slowly coming up.

You have talked of social democracy. What a beautiful image those words call to mind. But you have seen in eastern and central Europe how ugly is the reality: Naked dictatorship and in the ultimate analysis Russian overlordship. Please, please do not push India toward that terrible fate.

You have accused the opposition of every kind of villainy. But let me assure you that if you do the right things -- for instance, take the opposition into confidence, heed its advice -- you will receive its willing cooperation. For that you need not destroy democracy. The ball is in your court. You must decide.

10. It may be that J.P. Narayan incited the army, he might have exhorted the police and what he said might do harm to the country. I am one with you that such incitements should be severly punished. Why don't you put him before a court and say he has committed the highest treason in the country? Expose him to the whole world, bring out the evidence, prove to the hilt that he has done a heinous crime. However eminent he might be, if he has done something against the country and against the people, put him before a court, prove the guilt and give him whatever punishment possible. If some organizations have been against the interests of the people of this country, take suitable action, but take it in a legal way, in a democratic way ... it is very difficult to attain freedom. Once you lose it, it is still more difficult to regain it. Authoritarianism may become handy for some things, sometimes you feel this is a short-cut. Why should 500 members of Parliament come here to make a decision that one person can make? That is what Hitler thought. That is what Moussolini attempted. But these systems did not work because in a democracy if the executive does a wrong, there is a check, but if a dictatorship does a wrong, there is no check. The people have elected us to run a parliamentary democracy in this country. I bow to the decision of the majority but only after due process, after due debate, taking both sides into account.

Democracy is something more than being constitutional, than being legal because of what happened to one of the best constitutions, one of the

most liberal constitutions of the 20th centuery, namely, the Constitution of the Weimar Republic. Hitler did not subvert the Constitution. Hitler did not break the constitutional proceedures laid down there. But using that very Constitution, a dictatorship arose there.

Therefore, my appeal is this: If you are meaning by parliamentary democracy only the form and the constitutional procedures, it is not going to make a democracy function in this country. The spirit should also be there, not the form alone. A spirit of respect for the opposition, not merely tolerance, but positive recognition of the opinion of the opposition should be there. Unless there is a chance in our country to criticize the government without fear and to change the government without violence -- that is the essence of democracy -- you may retain the form and not the substance.

11. This sudden declaration of emergency is not because of a real threat to internal security but because of the judgment of the Allahabad High Court. The warning given by my party about the tendancy to totalitarian and one-party dictatorship since the last three years had proven true with the possibility of this declaration. By this, parliamentary democracy will be replaced by the dictatorship of one party with full power concentrated in the hands of one leader. This abrubt turn in the situation and the sudden change from democracy to dictatorship is to find a way out of the crisis to keep the ruling party in power. The thrust will be against the people. The democratic rights available to the people will be obliterated. There will not even be equality before the law. The threat of arrest will hang over everyone who dares to struggle against the vested interests and in defense of democracy. And remember, once the freedom of an individual is

taken away today, the day is not far off when the freedom of everyone will be taken away.

12. Article 21 states that no one should be deprived of life and liberty except by the procedures described by law. In other emergencies, even though other fundamental rights were restricted, this Article was never suspended. Writs of habeas corpus were never denied. However, in this internal emergency that we are discussing, this could very well happen. It has been suggested that in order to silence the opposition and to give the government a chance to operate, that Article 21 would be suspended entirely.

Article 21 does not pertain merely to the right to personal liberty. It also protects the right to life. Before I would rule that the suspension of this article is constitutional, As a Supreme Court Justice I would have to pose the following question. Suppose some policeman, out of some vendetta, some personal animosity against an individual that had nothing to do with matters of state, were to shoot someone. During an emergency would there be a recourse against that killing? The answer, as the Emergency Provision states, is unequivocal. If a policeman kills an individual, no matter what the reason, there is no legal remedy during the period of the Emergency.

It may shock the consciences of all of us, but during an Emergency, there would be no rule of law. Any policeman could kill someone and any policeman could detain someone and there would be no legal sanction against that at all.

Conclusion

Between 2:30 and 3:00 on the morning of June 26, the "knocks on the door" came. Before daybreak almost all of the Indian opposition leaders, 750 by some accounts, had been placed under arrest under the Maintenance of Internal Security and the Defense of India rules. They were denied any form of legal redress. Later that morning the President of India, acting under the direction of the Prime Minister, proclaimed a state of Internal Emergency under Article 352 of the Constitution as a necessary measure to check escalating national disorder and chaos.

Press censorship was imposed. Amendments were added to the Constitution that gave sweeping powers to the executive by stalling challenges to executive acts and emergency laws. Protection of inalienable rights was abridged or removed. General elections scheduled for 1976 were postponed until 1978. The democratic spirit of the Indian Constitution was squelched.

On the positive side, buses and trains began to run on schedule and clocks in offices were set for the first time in years. Bureaucrats were required to be polite to the public. A twenty-point plan was announced that would put India back on her feet and impose the needed "discipline" to fight the poverty that held her back. In order to instill these changes, though, thousands of dissidents were arrested and silenced. A sometimes brutal program of slum clearance was initiated. The lively Indian press was silenced. In order to curb the swelling population, a compulsory sterilization program was run, unfortunately by a bureaucratic machine that was often blind to the peoples' emotions.

Then, unexpectedly on January 18, 1977, Mrs. Gandhi reversed herself and announced that an election would be held on March 16, 1977. The Emergency was partially revoked, allowing campaigning, and opposition leaders were released

from jail. An election commission was established in order to ensure free and fair elections. The period that followed has been called the "second peaceful revolution" -- the first being India's independence from the British in 1947. This second revolution consisted of raising the political awareness of the mass of people who were "largely uneducated, seemingly apathetic, and resigned to the repressive laws imposed by the government" (We the People). Discussion and debate was kindled.

On March 22nd the election results were announced: Mrs. Gandhi and her party were defeated by a landslide. The Indian people had spoken and had chosen the Janata Party, the major opposition party, to lead them. In order to ensure that India's democracy would not be threatened again, basic changes were made in Article 352. Emergency powers were not revoked, but the Prime Minister must now meet formally with the Council of Ministers to be advised. The President now has more voice in whether or not to declare the Emergency, although he is still bound by the final decision of the Ministers. Finally, most importantly, even though the 7 basic freedom can still be restricted during a time of Emergency, those rights protected under Articles 21 and 22 cannot be taken away. Life, personal liberties and individual rights at the time of arrest are permanently protected by the Constitution.

Mrs. Gandhi would return to power in the 1980 national election. The people had forgiven her for her actions between 1975-77. When she was assassinated in 1984 the nation mourned grieviously. The opposition parties thrive and political freedom is strong.

Resources for "Sources"

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2. India Express editorial from July 15, 1975. "States Told to Improve Hospital Services" by Mr. Karan Singh, Union Health Minister.

3. India Express editorial from July 10, 1975. "Emergency May Not Last Long: Kaul" by T.N. Kaul, Ambassador to the U.S.

4. India Express editorial from July 4, 1975. "Tripathi's Call to Back Emergency" by Kamlupati Tripathi, Minister of Railroads.

5. India Express editorial from July 2, 1975. "Mrs. Gandhi" and "Prime Minister says Emergency was Unavoidable" both by Indira Gandhi.

6. From a private conversation with an Indian citizen.

7. India Express editorial from March 17, 1975 (before the Emergency). "Emergency Continued for Ulterior Motives" and "Protest at Emergency Continuance Planned" by Mr. Roop Narayan.

8. Same as above.

9. From a letter dated Dec. 5, 1975 written by J.P. Narayan to Indira Gandhi. Quoted in Ved Mehta's New India.

10. From a speech given in Parliament on July 21, 1975 by Era Sezhiyan.

11. From a speech given in Parliament on July 21, 1975 by A.K. Goplan.

12. From a private conversation with Justice H.R. Kanna, the former Supreme Court Justice who had cast the sole dissenting vote on deciding whether or not the Emergency powers were constitutional. Justice Kanna was then by-passed for the next available Chief Justice position to which he was entitled by his seniority on the bench.

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